
SENATE BILL 6614

State of Washington 60th Legislature 2008 Regular Session

By Senators Weinstein, Kline, and Fairley

Read first time 01/21/08. Referred to Committee on Judiciary.

1 AN ACT Relating to exemplary damages; and amending RCW 4.56.250.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3 **Sec. 1.** RCW 4.56.250 and 1986 c 305 s 301 are each amended to read
4 as follows:

5 (1) ~~((As used in this section, the following terms have the~~
6 ~~meanings indicated unless the context clearly requires otherwise.~~

7 ~~(a) "Economic damages" means objectively verifiable monetary~~
8 ~~losses, including medical expenses, loss of earnings, burial costs,~~
9 ~~loss of use of property, cost of replacement or repair, cost of~~
10 ~~obtaining substitute domestic services, loss of employment, and loss of~~
11 ~~business or employment opportunities.~~

12 ~~(b) "Noneconomic damages" means subjective, nonmonetary losses,~~
13 ~~including, but not limited to pain, suffering, inconvenience, mental~~
14 ~~anguish, disability or disfigurement incurred by the injured party,~~
15 ~~emotional distress, loss of society and companionship, loss of~~
16 ~~consortium, injury to reputation and humiliation, and destruction of~~
17 ~~the parent child relationship.~~

18 ~~(c) "Bodily injury" means physical injury, sickness, or disease,~~
19 ~~including death.~~

1 ~~(d) "Average annual wage" means the average annual wage in the~~
2 ~~state of Washington as determined under RCW 50.04.355.~~

3 ~~(2) In no action seeking damages for personal injury or death may~~
4 ~~a claimant recover a judgment for noneconomic damages exceeding an~~
5 ~~amount determined by multiplying 0.43 by the average annual wage and by~~
6 ~~the life expectancy of the person incurring noneconomic damages, as the~~
7 ~~life expectancy is determined by the life expectancy tables adopted by~~
8 ~~the insurance commissioner. For purposes of determining the maximum~~
9 ~~amount allowable for noneconomic damages, a claimant's life expectancy~~
10 ~~shall not be less than fifteen years. The limitation contained in this~~
11 ~~subsection applies to all claims for noneconomic damages made by a~~
12 ~~claimant who incurred bodily injury. Claims for loss of consortium,~~
13 ~~loss of society and companionship, destruction of the parent-child~~
14 ~~relationship, and all other derivative claims asserted by persons who~~
15 ~~did not sustain bodily injury are to be included within the limitation~~
16 ~~on claims for noneconomic damages arising from the same bodily injury.~~

17 ~~(3) If a case is tried to a jury, the jury shall not be informed of~~
18 ~~the limitation contained in subsection (2) of this section.)~~ Exemplary
19 damages may be recoverable in a civil action if it is proven by a
20 preponderance of the evidence that the party against whom exemplary
21 damages are sought has acted with reckless and wanton disregard for the
22 health, safety, and welfare of another.

23 (2) Damages awarded on a final and enforceable judgment under
24 subsection (1) of this section are subject to a fifty percent
25 reallocation as provided under this subsection. The fifty percent
26 reallocation shall be distributed as follows: (a) Twenty-five percent
27 shall be provided to the state general fund for the department of
28 social and health services to fund services to children who are
29 dependent as provided under chapter 13.34 RCW and their families; and
30 (b) twenty-five percent shall be provided to the state general fund for
31 the department of corrections to fund community custody, community
32 placement, and postrelease supervision of offenders as provided in
33 chapter 9.94A RCW.

34 (3) This section does not apply to a civil action against the state
35 or its representatives or agents, or a unit of local government or its
36 representatives or agents.

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